19/42

File No. B Finance 1/42

K

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

P. 12:E

Governors Bill No VII of 1942

A Bill to amend the

Bombay Finance Act 1932

(Amdt of Ss. 2, 15, 22, & 23)

Bm VII of 1942

File No. B Finance 1/42

Bm VI of 1942

Std. Sectt Slip 24-B

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Office of the R.L.A.

A revised consolidated draft Bill is appended.

2. (a) Clause 2 of the draft Bill provides for extending the period of the Bombay Finance Act, 1932 by one more year.

(b) Clause 3 provides for the second amendment suggested in paragraph 4 of the F.D. office note at pp. 11-13 ante. Under Article 20A in Schedule I of the Indian Stamp Act, 1899, the duty referred to in the Article is leviable on a clearance list submitted by a member of a recognised stock exchange. Under rule 120(a) of the Rules of the Native Share and Stock Brokers' Association, a member who is declared a defaulter ceases to be a member and it is not possible to recover stamp duty on the transactions entered into by a defaulter. The amendment provided in clause 3(2) of the draft Bill is intended to remove this difficulty. (See in this connection R.L.A's opinions No. 8526, dated 29th September 1941 and No. 9549, dated 5th November 1941 at pp. 22-23 and p. 26 of the F.D.File No. 2902/16027). Clause 3(1) of the Bill provides for a consequential amendment in the proviso to section 17 of the Indian Stamp Act.

(c) Clause 4 of the Bill provides for the amendment suggested in paragraph 1 of the F.D. office note at p. 15 ante. It provides for a reduction of the Urban Immoveable Property Tax from 8% to 7 2/3% and from 4% to 3 5/8 %.

(d) Clause 5 provides for exempting open lands within the limits of the Bombay Suburban District from the levy of the Urban Immoveable Property Tax (see pp. 1-7 of F.D. File No. 8326. of Finance Bill Bill 1942.).

3. The subject-matter of clause 2 of the Bill would fall under entries Nos. 1, 42, 48B and 51 in List II and entries Nos. 13 and 31 in List III in the Seventh Schedule to the Government of India Act, 1935. Clause 3 would fall under entry No. 51 in List II and entry No. 13 in List III . Clauses

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4 and 5 would fall under entry No. 42 in List II.

The subject-matter of Part IV of the Bombay Finance Act, 1932, falls, inter alia, under entry No. 13 of List III of the Government of India Act, 1935. It contains provisions which are repugnant to the Indian Stamp Act, 1899, which is an existing Indian law relating to this entry. The provisions of clause 2 of the Bill, inasmuch as they provide for continuance of these provisions in Part IV of the Bombay Finance Act, 1932, by one more year from 31 st March 1942, and the provisions of clause 3 of the Bill inasmuch as they provide for amendment of the Indian Stamp Act, 1899, are repugnant to the provisions of the said existing Indian law. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India, Act, 1935.

4. As the Bill is important the Advocate General is requested kindly to scrutinise the Bill and say whether it is in order.

O.C. P.N.Meos

16/2

Remembrancer of Legal Affairs.

U.R. to the Advocate General, Bombay No. 73-Conf. dated 16th February 1942.

S.A.K.
2/5/56.

I have scrutinised the draft Bill. It is in order.

Sd/-

Advocate General.

19/2/42.

Sd/- P.N.Moos.

19/2/42.

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Office of the R.L.A.

A revised consolidated draft Bill is appended.

2. Under executive instructions the Bill requires the previous concurrence of the Governor General before enactment. (See Secretary to the Governor's Memorandum (Confl). ~~The subject-matter of clause 2 of the Bill would ask~~ The--s No. 201(12). dated the 18th December 1939.copy attached). The subject-matter of clause 2 of the Bill would fall under entries Nos. 2 . 42, 45B and 51 in List II and entries Nos. 13 and 31 in List III in the Seventh Schedule to the Government of India Act. 1935 . Clause 3 would fall under entry No. 51 in List II and entry No. 13 in List III. Clauses 4 and 5 would fall under entry No. 42 in List II. The subject-matter of Part IV of the Bombay Finance Act. 1932. falls. inter alia. under entry No. 13 of List III of the Government of India Act 1935. It contains provisions which are repugnant to the Indian Stamp Act. 1889. which is an exis existing Indian law relating to this entry. The provisions of clause 2 of the Bill. inasmuch as they provide for continuance of these provisions in Part IV of the Bombay 1942. and Finance Act. 1932. by one more year from 31st March 1942. and the provisions of clause 3 of the Bill inasmuch as they provide for amendment of the Indian Stamp Act. 1899. are repugnant to the provisions of the said existing Indian law. The Bill will have . therefore. to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act. 1935.

3. The Advocate General has scrutinised the Bill

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2/5/56.

and has stated that it is in order.

O.C. P.E.Moos.
19/2

Remembrancer of Legal Affairs.

U.R. to F.D., No. 78 - Confl. dated the 19th February 1942.

S.AK.
2/5/56.

IMMEDIATE.
CONFIDENTIAL.

No. 2474-Confl.

Legal Department.
Bombay Castle. 19th March 1942.

From

P.N.Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Finance Act, 1932.

Sir,

With reference to your Memorandum No. 201(56), dated the 18th March 1942, addressed to the Finance Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Finance Act, 1932, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisions of the Bill affect any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or fall within the purview of clause (a),(b),(c) or (d) of paragraph ~~Fifx~~ XVII of the Instrument of Instructions to the Governor of Bombay.

3. By Bombay Act IV of 1941, the operation of the Bombay Finance Act, 1932, was extended upto 31st March 1942. Bombay Act IV of 1941 was reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) ~~with reference to~~ of the Government of India Act, 1935. The assent of the Governor General to that Act was communicated to this Department by your letter No. 201(17) dated the 25th March 1941. The present Bill purports to extend the operation of the Bombay Finance Act, 1932, with certain amendments for a period of one year more i.e. until 31st March 1943.

S.A.K.
3/5/

4. The subject-matter of clause 2 of the Bill would fall under entries Nos. 1, 42, 48 and 51 in List II and entries Nos.13 and 31 in List III in the Seventh Schedule to the Government of India Act, 1935. Clause 3 would fall under entry No. 51 in List II and entry No. 13 in List III. Clauses 4 and 5 would fall under entry No. 42 in List II. The subject-matter of part IV of the Bombay Finance Act, 1932, falls, inter alia, under entry No. 13 of List III of the Government of India Act, 1935. It contains provisions which are repugnant to the Indian Stamp Act, 1988 1899, which is an existing Indian law relating to this entry. The provisions of clause 2 of the Bill, inasmuch as they provide for continuance of these provisions in Part IV of the Bombay Finance Act, 1932, by one more year from 31st March 1942, and theprovisions of clause 3 of the Bill inasmuch as they provide for amendment of the Indian Stamp Act, 1899, are repugnant to the provisions of the said existing Indian law. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference to paragraph. (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

5. I also forward herewith six spare copies of the Bill out of which five copies are for transmission to the Secretary to the Governor General (Public).

6. It is requested that His Excellency the Governor General may be moved to give his assent to the Bill before 31st March 1942 and to convey the assent by telegram as the old Act expires on that day and the new Act must come into force on that date.

I have the honour to be,
Sir,
Your most obedient servant.

O.C. P.N.Moos
19/3

Secretary to the Government of Bombay.
Legal Department.

Through The Secretary to the Government of Bombay, Finance Department.

S.A.K.
3/5

Legal Department.

The Bill to amend the Bombay Finance Act. 1932. has been forwarded sparately through the Finance Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor General to the Bill.

2. A draft notification under section 92(1) of the Government of India Act. 1935. for applying the proposed Act to the partially excluded areas in this province is furnished herewith. If it is decided to apply the Act to the said areas. the notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

3. Attention of the Finance Department is requested to this Department Circular No. 7627 . dated the the 29th August 1941. Orders of Government on the question of application of the Act to the partially excluded areas in this Province should have been obtained and communicated to this Department at the time of forwarding the papers for obtaining assent to the Bill.

C.C. S.B.P.

for Secretary to the Government of Bombay
Legal Department.

U.O. to F.D.No. 115-Confl; dated the 20th March 1942.

S.A.K.
3/5/

NOTIFICATION.

Finance Department.
Bombay Castle, 1942.

No. 1- In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that Bombay Finance (Amendment) Act, 1942 (Bom. * of 1942) shall apply to the partially excluded areas in the Province of Bombay.

*To be filled in by F.D. before issue.

By order of the Governor of Bombay,

Secretary to Government.

S.A.K.
2/5/56.

IMMEDIATE.
CONFIDENTIAL.

No. 201(56)

Office of the Governor's Secretary,
Government House.

From

J.B.Irwin, Esquire, DSO, MC, ICS,

Secretary to the Governor of Bombay.

To.

The Secretary to Government,

Legal Department, Bombay.

Bombay, 27th March 1942.

Subject:- A Bill to amend the Bombay Finance Act, 1932.

Sir,

With reference to your letter No. 2474-Comfl., dated the 19th March 1942, I am directed to inform you that intimation has been received from the Secretary to the Governor-General (Public) that His Excellency the Governor-General assent assented to the Bombay Finance (Amendment) Bill, 1942, on the 26th March 1942.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-

For Secretary to the Governor of Bombay.

Sd/- P.N.Moos.

27/3/

S.A.K.

2/5/56.

Agtn.

Publication of the Bombay Finance (Amendment) Act, 1942.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 2793

Bombay Castle, 28th March 1942.

Letter to the Secretary to the Governor, No. 2474-Confidential, dated the 19th March 1942.

Letter from the Secretary to the Governor, No. 201(56), dated the 27th March 1942.

"With reference to your letter No. 2474-Confl., dated the 19th March 1942, I am directed to inform you that intimation has been received from the Secretary to the Governor-General (Public) that His Excellency the Governor-General assented to the Bombay Finance(Amendment) Bill, 1942, on the 26th March 1942."

RESOLUTION.- The law should should be published as Bombay Act No. VI of 1942, in the Bombay Government Gazette dated the 28th March 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devanagari Scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay.

Sd/-
For (P.H.Moos,
(Secretary to Government.)

To

The Manager, Government Central Press, Bombay, (with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).

The Finance Department.)
*The Oriental Translator to Government.) 1) With a copy of
The Secretary to the Bombay Legislative Council) the Act.
The Secretary to the Bombay legislative Assembly.)

*With five extra copies.

Sd/-
31/3/42

S.A.K.

2/5/

Very Urgent.

No. 201(56).
Office of the Governor's Secretary,
Government House.

Bombay, 30th March 1942.

From:

J.B.Irwin, Esquire, DSO. MC., ICS.
Secretary to the Governor of Bombay.

To.

The Secretary to Government.
Legal Department, Bombay

Subject:- The Bombay Finance (Amendment) Act. 1942.

Sir,

In continuation of my letter No. 201(56), dated the 27th March 1942, I am directed to forward herewith the authentic copy of the Bill to amend the Bombay Finance Act. 1932, with His Excellency the Governor-General's assent signified thereon.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-

For Secretary to the Governor of Bombay.

S.A.K.
2/5//56

Bom. Act VI of 1942

~~GOVERNOR'S BILL No. VII OF 1942.~~

A Bill to amend the Bombay Finance Act, 1932.

WHEREAS it is expedient to amend the Bombay Bom. II of 1932. Finance Act, 1932, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under 26 Geo. 5, c. 2. section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1942.

(*2*) It shall come into force on 31st March 1942.

Amendment of section 2 of Bom. II of 1932.

2. In sub-section (*3*) of section 2 of the Bombay Bom. II of 1932. Finance Act, 1932 (hereinafter called "the said Act"), for the word "ten" the word "eleven" shall be substituted.

Amendment of section 15 of Bom. II of 1932.

3. In section 15 of the said Act,

(*1*) in sub-section (*2A*), in the proviso, for the words and figures "by a member of a stock exchange recognised under the Bombay Securities Bom. VIII of 1925. Contracts Control Act, 1925, to the clearing house of such stock exchange" the words and figures "to the clearing house of a stock exchange recognised under the Bombay Securities Bom. VIII of 1925. Contracts Control Act, 1925," shall be substituted;

(*2*) in sub-section (*5*), in clause (*dd*)—

(i) in Article 20A, the words "by a member of a recognised stock exchange on his own account or on account of any other person" and the words "by such member" shall be deleted;

(ii) in the Explanation to the said Article 20A, the words "by the members" shall be deleted.

Amendment of section 22 of Bom. II of 1932.

4. (*1*) In section 22 of the said Act, for the word "eight" the figures "$7\frac{2}{3}$" and for the word "four" the figures "$3\frac{5}{6}$" shall respectively be substituted.

(*2*) Nothing contained in this section shall affect the liability of any person to pay the Urban Immoveable Property Tax in respect of any building or land or portion thereof, for any period prior to the date of the coming into force of this Act at the rate at which it was leviable before such date.

Amendment of section 23 of Bom. II of 1932.

5. In section 23 of the said Act—

(i) in clause (*c*) the word "and" where it occurs for the last time shall be deleted;

(ii) after clause (*d*) the following shall be inserted, namely :—

"and

(*e*) open lands within the limits of the Bombay Suburban and Thana Districts."; and

(iii) in the Explanation after the words "separate property" the following shall be inserted, namely :—

"(*3*) 'open land' shall mean land which is not built upon or enclosed."

STATEMENT.

The Bombay Finance Act, 1932, containing provisions for the imposition of an Electricity duty, enhanced Stamp duties and Court-fees and the Urban Immoveable Property Tax expires on the 31st March, 1942. Government has decided that the Electricity duty and the enhanced Stamp duties and Court-fees should be continued without reduction and that the rates of the Urban Immoveable Property Tax should, with effect from the 1st April, 1942, be reduced from 8 % to $7\frac{2}{3}$ % and from 4 % to $3\frac{5}{8}$ %. The consequent reduction in the receipts from this tax is estimated to be Rs. 4 lakhs per annum and corresponds to the further increase now anticipated in excise revenue on account of certain modifications which, in consonance with judicial decisions, Government effected in its prohibition arrangements. Government has undertaken to grant relief in respect of the Urban Immoveable Property Tax to the extent of such increase in excise revenue.

2. Opportunity has been taken of the renewal of the Finance Act to make the following amendments :—

(*1*) *Recovery of Stamp duty from defaulter members.*—The Stamp Act provides for a duty being levied only on a clearance list submitted by a member of a recognised Stock Exchange. Under the rules of recognised Stock Exchanges a member who is declared a defaulter ceases to be a member and it is not legally possible for the Stock Exchange to recover Stamp duty on the transactions entered into by a defaulter. The amendment is intended to remove this difficulty.

(*2*) In the Bombay Suburban and Thana Districts it has been found that the return from the Immoveable Property Tax on lands not built upon or enclosed is negligible and the Act has been amended in order to exempt such properties from the levy of the tax.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.